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10/533,876

05/05/2005

Mats Johansson

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EXAMINER

TRUONG, THANH K

ART UNIT

PAPER NUMBER

3721

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

01/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|--------------------------------------|-----------------------------------------|--|
| Office Action Summary | Application No. 10/533,876 | Applicant(s) JOHANSSON ET AL. | |
| | Examiner Thanh K. Truong | Art Unit 3721 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) 19-22 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>5-5-05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I, claims 1-18 in the reply filed on October 5, 2006 is acknowledged. The traversal is on the ground(s) that:

"it is of no significance that dependent claims may define a further invention. Thus, contrary to the observation in the Official Action, it is not particularly relevant that Claim 20 may define additional features or may itself contain a further invention. It is also significant to note that lack of unity of invention was not raised in the international phase of the corresponding international application. A contrary holding should not apply here"

This is not found persuasive because as stated in the previous office action, the inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons - the technical feature(s) of one group is (are) not required (or lacking) in the other group(s).

The requirement is still deemed proper and is therefore made **FINAL**.

2. Claims 19-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, the phrase "a first end" in line 7, is vague and indefinite, because it is unclear which of the member is the first end is refereeing to – a sealing half or the forming flaps.

Claim 1, the recitation "a second end of each forming flap is adapted to at least partly follow the reciprocal movement of the associated sealing half" is vague and indefinite, because as the associated sealing half are moved between an open position and a close sealing position, the second end of the forming flap (the entire flap) is moved with the sealing half, not partly follow as recited in claim 1.

Claim 2 recites the limitation "the second end" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 5, the recitation "wherein each of the forming flaps is attached at its first end to one end of each half of the second pair of linkage arrangements between the third pair of linkage arrangements and the second pair of linkage arrangements" (emphasis added) is confusing. Should the "second pair" in line 4 be changed to "the first pair"?

Claim 11, the phrase "the carriers" in line 7, is vague and indefinite, because it is unclear what carriers are being referred to – the first and the second carriers or the first and the third carriers or the second and the third carriers.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Wakabayashi et al. (4,738,077).

Wakabayashi et al. discloses an apparatus comprising: at least one pair of halves, which are reciprocally movable between an open position and a closed sealing position for sealingly closing the open end of the package, forming means comprising a pair of forming flaps (31, 34), each forming flap being associated with a sealing half (66, 67) and pivotally attached at its first end to a support such that its second end is adapted to follow the reciprocal movement of the associated sealing half (figure 3), and

the forming flaps during the movement of the sealing halves towards the closed sealing position press two opposing portions of the package towards each other.

Regarding claim 2, wherein each of the forming flaps is adapted to be pivoted from a first essentially vertical position (the solid line of member 31, 34 in figure 3) to a second angled position (the dashed line of member 31, 34 in figure 3) in which the second end of the flap is in contact with a portion adjacent the open end of each package.

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7. Claims 1, 4, 5, 9 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Lohse et al. (3,220,161).

Lohse et al. discloses an apparatus comprising: at least one pair of halves, which are reciprocally movable between an open position and a closed sealing position for sealingly closing the open end of the package, forming means comprising a pair of forming flaps (41, 41), each forming flap being associated with a sealing half (101, 101) and pivotally attached at its first end to a support (50, 51) such that its second end is adapted to follow the reciprocal movement of the associated sealing half (figure 3), and

the forming flaps during the movement of the sealing halves towards the closed sealing position press two opposing portions of the package towards each other.

Regarding claim 4, wherein the apparatus comprises at least three pairs of linkage arrangements including a first pair of linkage arrangements (43, 44) with two reciprocally movable halves provided with pressing means (42, 42) for pressing on opposing portions of the package (B) at a distance from the open end thereof, a second pair of linkage arrangements (50, 51) with two reciprocally movable halves provided with forming means (41, 41) for forming each package adjacent the open end thereof, and a third pair of linkage arrangements (108) with two reciprocally movable halves provided with sealing means (101, 101) for closing and sealing the open end of each package.

Regarding claim 5, wherein each of the forming flaps (41, 41) is attached at its first end to one end of each half of the second pair of linkage arrangements between the third pair of linkage arrangements and the first pair of linkage arrangements.

Regarding claim 9, wherein the three pairs of linkage arrangements, for sealingly closing the open end of each package are vertically spaced apart, so that the movable halves of the linkage arrangements are freely movable in relation to each other during sealing and closing of each package (figures 3-6).

Regarding claim 11, wherein the first pair of linkage arrangements (43, 44) is connected to a first carrier (48) movably provided on a guide (47), the second pair of linkage arrangements (50, 51) is connected to a second carrier (56) movably provided on said guide (54), the third pair of linkage arrangements (108) is connected to a third carrier (113) movably provided on said guide (114), and the carriers (48, 56) are connected to a cam curve disc (that connected to shaft 3 – it is construed that shaft 3 comprises a cam with plurality of curve disc).

Regarding claim 12, wherein each half of the first pair of linkage arrangements comprises an arm (43, 44) which in a first end is provided with the pressing means (42) for pressing on a portion of the package at a distance from the open end thereof and which in a second end is pivotably connected to the first carrier (48) by a link, and which between the first and second ends is provided with a fixed pivot point.

Regarding claim 13, wherein each half of the second pair of linkage arrangements (50, 51) comprises a first and a second arm which first and second arms being connected to each other in first ends thereof and provided with the forming means (41) for forming each package adjacent the open end thereof, which first arm in a second end is pivotably connected to the second carrier (56) by a link and which between the first and second ends is provided with a fixed pivot point and which second

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arm in a second end is fixed and which in between the first and second ends is provided with a fixed pivot point (figure 3 and 4).

Regarding claim 14, wherein each half of the third pair of linkage arrangements (108) comprises an arm which in a first end is provided with the sealing means (101) for closing and sealing the open end of each package and which in a second end is pivotably connected to the third carrier (113) by a link, and which between the first and second ends is provided with a fixed pivot point (figure 2).

Allowable Subject Matter

8. Claims 3, 6-8, 10 and 15-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

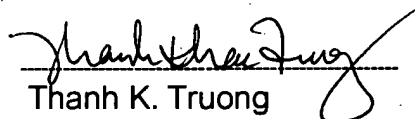
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Thanh K. Truong
Patent Examiner
December 25, 2006.